

JUN 14 2007

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

JAPHETH OTIENO OBARE,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 06-71781

Agency No. A98-155-036

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted June 5, 2007**

Before: LEAVY, RYMER, and T.G. NELSON, Circuit Judges.

Japheth Otieno Obare, a native and citizen of Kenya, petitions for review of the order of the Board of Immigration Appeals (“BIA”) that adopted and affirmed the Immigration Judge’s (“IJ”) denial of his application for asylum, withholding of

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

removal, and relief under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence, *see Nahrvani v. Gonzales*, 399 F.3d 1148, 1151 (9th Cir. 2005), and we deny the petition for review.

Substantial evidence supports the IJ’s and BIA’s decision that Obare failed to establish religious persecution by forces the Kenyan government is either unable or unwilling to control. *See id.* at 1154. Furthermore, substantial evidence in the record demonstrates that Obare could safely relocate within Kenya. *See Gomes v. Gonzales*, 429 F.3d 1264, 1267 (9th Cir. 2005). Accordingly, Obare failed to establish a well-founded fear of future persecution. *See id.*

Because Obare failed to meet his burden for asylum, he necessarily did not satisfy the more stringent standard for withholding of removal. *See Alvarez-Santos v. INS*, 332 F.3d 1245, 1255 (9th Cir. 2003).

Substantial evidence also supports the IJ’s and BIA’s decision that Obare has not shown that it is more likely than not that he would be tortured if he returns to Kenya. *See Singh v. Ashcroft*, 351 F.3d 435, 443 (9th Cir. 2003).

PETITION DENIED.